

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Carl Oppendahl on 7/30/2009, and 8/3/2009.

The application has been amended as follows:

2. **Delete** claims 6 and 8.
3. **Insert** claims 18 and 19, as follows:

Claim 18. A method of preparing a fungal glucane hydrogel having antibacterial and immunostimulant activity, by the following steps:

1. alkaline deproteination of fruiting bodies of oyster mushroom (*Pleurotus ostreatus*);
2. subsequent elimination of water soluble components to obtain insoluble glucane;
3. followed by hydration and defibration of the insoluble glucane by wet grinding, wherein the wet grinding is carried out at a rotational speed of 3000-9000 rpm for 10-20 minutes and to a swelling volume in water of 50 to 500 ml/g.;
4. followed by heat sterilization at a temperature of 90 to 110 °C for 20 to 30 minutes, resulting in the hydrogel which is formed by the fungal

polysaccharide from the fruiting body of *Pleurotus ostreatus*, with the  $\beta$ -(1,3)-D-glycosidic bond in the principal chain, in a concentration of 0.5 to 3 % by weight.

Claim 19. The method according to claim 18, characterized in that the resulting gel is formed by fungal polysaccharide with the  $\beta$ -(1,3)-D-bond branched at every fourth anhydroglucose unit.

### ***Response to Arguments***

4. Applicant's arguments, in the reply filed 7/8/2009, with respect to the rejection of claims 18 and 19 added by an examiner's amendment, under 35 USC § 103(a) as being unpatentable over Wheatcroft et. al., US 6,444,448 patent, have been fully considered and are persuasive.

### **Reasons for Allowance**

5. The following is an examiner's statement of reasons for allowance: Claims 18 and 19 added by an examiner's amendment are allowable over the prior art as the prior art neither teaches nor suggests the method of preparing a fungal glucane hydrogel as now instantly claimed.

The closest prior art is Wheatcroft et. al., US 6,444,448 patent. This patent was cited previously in the final office action. Wheatcroft et. al. teaches a method of preparing a  $\beta$ -glucan-mannan substance, as isolated from yeasts and other natural sources. Wheatcroft et. al. teaches away from the method instantly claimed because

alkaline deproteination is not taught, or hydration to a specific swelling volume in water of 50 to 500 ml/g. There are no teachings or suggestions by Wheatcroft et. al. that would lead one of ordinary skill in the art to arrive at the instant invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

6. Claims 18 and 19 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH PIHONAK whose telephone number is (571)270-7710. The examiner can normally be reached on Monday-Thursday 8:00 AM - 6:30 PM EST, with Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571)272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.P.

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